

## **Appendix I. Regulatory Impact Review**

### **Introduction**

The NOAA Fisheries Service requires a Regulatory Impact Review (RIR) for all regulatory actions that are of public interest. The RIR does three things: (1) it provides a comprehensive review of the level and incidence of impacts associated with a proposed or final regulatory action; (2) it provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problem; and, (3) it ensures that the regulatory agency systematically and comprehensively considers all available alternatives so that the public welfare can be enhanced in the most efficient and cost-effective way. The RIR also serves as the basis for determining whether the proposed regulations are a “significant regulatory action” under the criteria provided in Executive Order (E.O.) 12866 and provides information that may be used in conducting an analysis of impacts on small business entities pursuant to the Regulatory Flexibility Act (RFA). This RIR analyzes the expected effects that this action would be expected to have on the commercial and recreational sectors of the snapper grouper fishery, with emphasis on the golden tilefish segment. Additional details on the expected economic effects of this action are included in **Section 4** and are incorporated herein by reference.

### **Problems and Objectives**

The purpose and need, issues, problems, and objectives of the proposed rule are presented in **Section 1.4**. The purpose of this proposed action is to limit participation and effort in the golden tilefish segment of the snapper grouper fishery; allocate the annual catch limit (ACL) between gear groups; and, modify or establish golden tilefish trip limits.

The need for the proposed action is to reduce overcapacity in the golden tilefish portion of the snapper grouper fishery. This proposed action would address issues that have arisen from a more stringent regulatory regime in the South Atlantic fisheries.

### **Methodology and Framework for Analysis**

This RIR assesses management measures from the standpoint of determining the resulting changes in costs and benefits to society. Ideally, the net effects of the proposed measures should be expressed in terms of producer and consumer surplus. Absent the necessary information, the analysis considers mainly the revenue effects of the various measures. In addition, the public and private costs associated with the process of developing and enforcing regulations on fishing for snapper grouper in waters of the U.S. South Atlantic are provided.

### **Description of the Fishery**

A description of the South Atlantic snapper grouper fishery, with particular reference to golden tilefish, is contained in **Chapter 3** and is incorporated herein by reference.

## Effects of Management Measures

Details on the economic effects of all alternatives are found in **Chapter 4** and are included herein by reference. The following discussion focuses mainly on the expected effects of the preferred alternatives.

An endorsement system proposed under **Alternative 2 (Preferred)** of **Action 1** would limit the number of commercial participants who harvest golden tilefish using longlines. Given the fact that the longline sector has accounted for over 90 percent of commercial landings of golden tilefish, an endorsement system for this sector would help in addressing overcapacity and effort expansion in the commercial sector. It is likely, however, that the effects of an endorsement system would be temporary. Unlike the case with a management system that assigns harvesting privileges to fishermen, an endorsement system would not eliminate the underlying incentive to “race to fish.” Effort and capital stuffing would continue to increase over time because eligible longline participants could still do it, especially if they perceive the endorsement system as a prelude to a catch share program. In addition, expansion of the hook and line sector could still occur. Perhaps, the best an endorsement can do is to prevent a surge in effort from other sources than those included in the longline endorsement and the hook and line sector. An endorsement coupled with a quota increase proposed in Regulatory Amendment 12 can do better in addressing overcapacity and delaying the development of a full derby than either alone. Together, they offer a higher likelihood of extending the fishing season and thereby providing opportunities for the industry to remain profitable. It should be recognized, however, that the combined effects of an endorsement and quota increase would be transitory. With the incentive to “race to fish” still intact, fishermen could adapt to the new quota and the endorsement system and increase their effort over time.

Of the 9 sub-alternatives for the longline endorsement, **Sub-alternative 2h (Preferred)** would allow for the most number of permit holders to qualify for the endorsement (23 out of 38 permit holders). Eligible permit holders employed 24 vessels that landed at least one pound of golden tilefish in any one year during 2005-2011. On average, eligible permitted vessels landed approximately 288,000 pounds gw of golden tilefish annually. These landings accounted for 94% of golden tilefish landings by all “longline” vessels (eligible and ineligible) and 75% of the eligible vessels’ landing of all species caught in the trip<sup>1</sup>. Eligible vessels generated approximately \$788,000 (in 2010 dollars) of revenues from golden tilefish. These revenues accounted for 94% of all revenues from golden tilefish by all “longline” vessels (eligible and ineligible) and 83% of the eligible vessels’ revenues from all species caught in the trip. **Sub-alternative 2h (Preferred)** would disqualify 15 (38 minus 23) permit holders from obtaining a longline endorsement. These permit holders employed 19 vessels that landed at least one pound of golden tilefish in any one year during 2005-2011. Ineligible permitted vessels landed approximately 18,000 pounds gw of golden tilefish which accounted for 6% of golden tilefish landings by all “longline” vessels (eligible and eligible) and 11% of the ineligible vessels’ landing of all species caught in the trip. These ineligible vessels’ landing of golden tilefish generated approximately \$47,000 in revenues which accounted for 6% of all “longline” vessel

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<sup>1</sup> Vessels that caught golden tilefish also caught other species on the same trip and thereby also generated revenues from these other species.

revenues from golden tilefish and 17% of these vessels' revenues from all species caught in the trip.

Ineligible vessels under **Sub-alternative 2h (Preferred)** would forgo annual revenues of about \$47,000 (2010 dollars), the lowest forgone revenues among the sub-alternatives. It is possible these revenue losses would be very burdensome for some vessels. In the absence of sufficient information, it cannot be ascertained if these revenue reductions would result in significant profit reductions. Nonetheless, it would be relatively difficult for these vessels to recoup their revenue (and possibly profit) losses by increasing their fishing effort on other snapper grouper species as several recent regulations have restricted the harvest of other snapper grouper species. They could continue harvesting golden tilefish using other gear types such as hook and line, but it is unlikely they would totally recoup their losses.

Losses to non-qualifying vessels would not necessarily turn out as losses to the longline sector or to the commercial sector as a whole. The remaining longline participants have enough capacity to harvest whatever is given up by non-qualifying vessels. Because of recent closures that occurred in the commercial golden tilefish segment of the snapper grouper fishery, it is likely that qualifying vessels could recoup losses to non-qualifying vessels in the near future. This could likely happen even if the quota is raised (per Regulatory Amendment 12) because the longline sector appears to have the necessary capacity to increase its harvest of golden tilefish.

**Alternative 2 (Preferred)** of **Action 3** would establish an appeals process for fishermen initially excluded from the golden tilefish longline endorsement. This would provide opportunities for those legitimately qualified to receive their endorsement. Given the narrow basis for appeals (landings reported on NMFS logbook records or state landing records), only a limited number of appeals would be successful.

**Alternative 2 (Preferred)** of **Action 4** would establish a 75% longline and 25% hook and line allocation of the golden tilefish commercial ACL. Relative to the baseline, each allocation alternative would redistribute the harvest from the longline sector to the hook and line sector. This, in theory, would result in negative effects on the longline sector and positive effects on the hook and line sector. However, because the commercial quota is increased well above the baseline landings of both sectors, each allocation alternative would yield positive revenue effects to both sectors. The revenue effects to each sector would directly correlate with the size of its allocation—the higher a sector's allocation the larger would be its revenue effects. Under **Alternative 2 (Preferred)**, revenue gains would be \$302,000 to the hook and line sector and \$271,000 to the longline sector, or total revenue effects of about \$573,000.

**Alternative 2 (Preferred)**, together with **Sub-alternative 2a (Preferred)**, of **Action 5** would allow transferability of golden tilefish longline endorsement between individuals or entities with Unlimited Snapper Grouper Permits. Allowing transferability of longline endorsements would open opportunities for increasing the value of the endorsement asset and for the more efficient operators to engage in the fishery. Such opportunities, however, would still be limited by the requirement that transfers of endorsements be made between individuals/entities possessing unlimited snapper grouper permits. These permits are now under a limited entry program.

**Alternative 1 (Preferred) of Action 6** would maintain the current fishing year for golden tilefish. This would not have any economic effects on fishing participants.

**Alternative 2 (Preferred) of Action 7** would eliminate the 300-pound gw step-down commercial trip limit when 75% of the commercial ACL is taken. This ratcheting down of the trip limit was intended to preserve the presence of the hook and line sector, but it is now unnecessary because this sector has its own separate allocation. Thus, this alternative would allow the longline sector, whose trips would likely be unprofitable under a 300-pound gw trip limit, to efficiently use its capacity and maximize its revenues and possibly profits from its allocation.

**Alternative 4 (Preferred) of Action 8** would establish a 500-pound trip limit for commercial fishermen who would not receive a longline endorsement. Based on average 2005-2011 commercial vessel trips that landed golden tilefish, this trip limit would affect 14 out of 249 trips and would reduce landings by about 24,000 pounds gw worth \$69,000 (2010 dollars). The effects of a trip limit are generally temporary--vessels incurring revenue reductions due to a trip limit could recoup their losses by taking more trips so long as those trips remain profitable. Considering the relatively few trips that would be affected, this trip limit would likely not be too constraining as to reduce the sector's overall profits.

## Public and Private Costs of Regulations

The preparation, implementation, enforcement, and monitoring of this or any Federal action involves the expenditure of public and private resources which can be expressed as costs associated with the regulations. Costs associated with this amendment include:

Council costs of document preparation, meetings, public hearings, and information dissemination.....	\$200,000
NOAA Fisheries administrative costs of document preparation, meetings and review .....	\$100,000
Annual law enforcement costs .....	unknown
TOTAL .....	\$300,000

Law enforcement currently monitors regulatory compliance in these fisheries under routine operations and does not allocate specific budgetary outlays to these fisheries, nor are increased enforcement budgets expected to be requested to address components of this action. In practice, some enhanced enforcement activity might initially occur while the fishery becomes familiar with the new regulations. However, the costs of such enhancements cannot be forecast. Thus, no specific law enforcement costs can be identified.

## **Determination of Significant Regulatory Action**

Pursuant to E.O. 12866, a regulation is considered a “significant regulatory action” if it is expected to result in: (1) an annual effect of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this executive order. Based on the information provided above, this regulatory action would not meet the first criterion. Therefore, this regulatory action is determined to not be economically significant for the purposes of E.O. 12866.